

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

Charles C.,<sup>1</sup>

Civ. No. 22-2054 (JWB/DJF)

Plaintiff,

v.

Kilolo Kijakazi, *Acting Commissioner of  
the Social Security Administration,*

**ORDER ACCEPTING  
REPORT AND RECOMMENDATION  
OF MAGISTRATE JUDGE**

Defendant.

---

Bryan Konoski, Esq., Kira Treyvus, Esq., Konoski & Partners, P.C.; James H. Greeman, Esq., Greeman Toomey, counsel for Plaintiff.

Ana H. Voss, Esq., United States Attorney's Office; Emily Carroll, Esq., and James D. Sides, Esq., Social Security Administration, counsel for Defendant.

---

This matter is before the Court on the Report and Recommendation ("R&R") of United States Magistrate Judge Dulce J. Foster dated May 22, 2023. (Doc. No. 28.) No objections have been filed to that R&R in the time permitted. Based on the R&R of the Magistrate Judge, and on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The May 22, 2023 R&R (Doc. No. 28) is **ACCEPTED**;
2. Plaintiff's Motion for Summary Judgment (Doc. No. 18) is **GRANTED**;
3. Defendant's Motion for Summary Judgment (Doc. No. 23) is **DENIED**;

---

<sup>1</sup> This District has adopted the policy of using only the first name and last initial of any nongovernmental parties in social security appeals such as the present case. Accordingly, where the Court refers to the Plaintiff, only the first name and last initial are provided.

4. The Commissioner's final decision is vacated;

5. This case is **REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g), for further administrative proceedings consistent with the R&R. As stated in the R&R, "[o]n remand the ALJ should: (1) either include Plaintiff's mild mental limitations in Plaintiff's RFC determination or provide a well-reasoned justification for their omission; and (2) recall a vocational expert for testimony to the extent necessary to address a new hypothetical based on any modified RFC." (Doc. No. 28 at 17.); and

6. This case is **DISMISSED WITH PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Date: June 27, 2023

s/ Jerry W. Blackwell  
JERRY W. BLACKWELL  
United States District Judge